



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TRG  
Docket No: 5086-98  
26 April 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting, in effect, recharacterization of his discharge and a change in his reenlistment code.

2. The Board, consisting of Mr. Zsalman, Mr. Brezna and Mr. Adams, reviewed Petitioner's allegations of error and injustice on 25 April 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 16 June 1989 at age 18. On 17 July 1991 he was counseled concerning letters of indebtedness and writing bad checks. On 25 July 1995 he received nonjudicial punishment for two periods of unauthorized absence totaling about one day, dishonorably making and uttering worthless checks, and failing to pay his debts. The punishment imposed included a reduction in rate from STS3 (E-4) to STSSN (E-3).

d. On 4 September 1991 Petitioner was notified of separation action by reason of misconduct due to commission of a serious offense, as evidenced by the bad checks and his

dishonorable failure to maintain funds. That same day, he elected to waive his right to have his case heard by an administrative discharge board. On 15 October 1991 the discharge authority approved the recommendation of the commanding officer that he be discharged under other than honorable conditions. He was so discharged on 23 October 1991. At that time he was not recommended for reenlistment and was assigned an RE-4 reenlistment code.

e. Petitioner states that he has matured and desires a change in his record so that he can enlist in the National Guard.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board first notes that he had two years of unblemished service, during which he advanced in rate to STS3. Further, there is no documentation in the record concerning the amount of his indebtedness or the circumstances surrounding the bad check offenses. In addition, the Board notes that he received nonjudicial punishment only eight days after he was counseled concerning his problems and certainly did not have much time to correct his behavior. Given the circumstances, the Board concludes that a discharge under other than honorable conditions is overly harsh, and the discharge should now be recharacterized to a general discharge.

The Board believes that the record was sufficient to support a discharge by reason of misconduct and the reason for discharge should not be changed. An RE-4 reenlistment code is the only authorized reenlistment code when an individual is discharged by reason of misconduct. Therefore, the Board concludes that the reenlistment code should not be changed.

#### RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that on 23 October 1991 he was issued a general discharge by reason of misconduct vice the discharge under other than honorable conditions actually issued on that date.
- b. That Petitioner's request for a change in the reenlistment code be denied.
- c. That this Report of Proceedings be filed in Petitioner's naval record.
- d. That the Department of Veterans Affairs be informed upon request that Petitioner's application was received by the Board

on 1 July 1998.

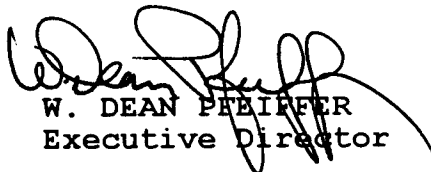
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive Director